



Comments on Proposed New

19 TAC Chapter §61.1073

December 6, 2022

The Association of Texas Professional Educators (ATPE) respectfully submits the following comments on proposed new 19 TAC Chapter 61, School Districts, Subchapter GG, Commissioner's Rules Concerning Counseling Public School Students, §61.1073, Annual Assessment of School District Compliance. The rule implements requirements for school counselors to spend at least 80% of their total work time on duties that are components of a counseling program as required by Senate Bill (SB) 179, 87th Texas Legislature, Regular Session, 2021.

ATPE supported SB 179 and continues to support the bill's intent.

ATPE, the state's largest organization representing educators, along with the Texas Counseling Association, three other statewide educator associations, and a host of organizations representing parents and students, supported SB 179 during the 2021 legislative session. The bill's goal was limiting counselors' time spent on non-counseling duties, especially those related to test administration, as defined by Texas Education Code (TEC) 33.005. That goal aligns with ATPE's priorities of promoting working environments for educators that are respectful of their professionalism and ensuring the state testing and accountability system does not get in the way of allowing educators to best meet the individual needs of students.

Mandating a significant new paperwork requirement is contrary to the intent of SB 179.

Unfortunately, the proposed rule to implement SB 179 is contrary to the spirit of the bill. Section (b) of the proposed rule would mandate the addition of a significant, potentially time-consuming compliance task, which would take away from the limited time that counselors have available to perform their counseling duties. In addition to being antithetical to the purpose of the bill, sections (b) and (c) of the proposed rule are also in opposition to ATPE's priority of supporting meaningful efforts to monitor, control, and ultimately reduce the paperwork burdens on educators, including counselors.

Implementation of SB 179 does not require the burdensome approach being proposed.

Thankfully, TEC 33.006(h), as added by SB 179, does not require the complex and overly burdensome regulatory framework contemplated by sections (b) and (c) of the proposed rule. TEC 33.006(d) requires that each school district adopt either the uniform policy spelled out in the bill or an alternate local policy under subsection(e), that each school in the district implement the policy, and that each school maintain a public copy of the policy to be made available upon request. TEC 33.006(h) merely requires the district to annually assess its compliance with the local policy it is required by TEC 33.006(d) to adopt and share the results with the commissioner

upon request. Complying with TEC 33.006(h) could be as simple as requiring the principal or their designee at each district campus to annually affirm they have posted and are following the district's policy adopted in compliance with TEC 33.006(d) or (e) and, upon request, provide a record of those affirmations to the commissioner. This is only one example of many possible ways to comply with the requirements of TEC 33.006(h) without violating the spirit of SB 179 or placing a significant new mandate on the state's counselors.

ATPE recommends changes to the proposed rule to eliminate burdensome reporting requirements, and we appreciate the agency's consideration of our feedback. For additional information, contact ATPE Governmental Relations at government@atpe.org or (512) 467-0071.